

**SUPREME COURT MINUTES  
WEDNESDAY, JULY 27, 2005  
SAN FRANCISCO, CALIFORNIA**

**S110887**

G028823 Fourth Appellate District,  
Division Three

REEVES (JAMES GREEBE) ON H.C.  
Rehearing denied

Requests for modification denied.  
Petition for rehearing is denied.

Chin, J., is of the opinion the petition should be granted.

**S120677**

A099674 First Appellate District,  
Division Two

PEOPLE v. SORDEN  
Rehearing denied

Petition for rehearing and request for  
modification is DENIED.

Werdegarr, J., is of the opinion the petition  
should be granted.

**S112386**

D039656 Fourth Appellate District,  
Division One

WASATCH PROPERTY MGMT. v. DEGRATE  
Opinion modified - no change in judgment

**S133794**

B174826 Second Appellate District,  
Division Four

PIONEER ELECTRONICS v. S.C. (OLMSTEAD)  
Petition for review granted

Votes: George, C.J., Kennard, Baxter,  
Werdegarr, Chin, and Moreno, JJ.

**S134072**

C045494 Third Appellate District

CALIFORNIA COMMISSION ON PEACE  
OFFICER STANDARDS & TRAINING v. S.C.  
(LOS ANGELES TIMES)  
Petition for review granted

Votes: George, C.J., Kennard, Baxter,  
Werdegarr, Chin, and Moreno, JJ.

**S134243**

B170355 Second Appellate District,  
Division Six

PEOPLE v. THOMA

Petition for review granted

Votes: George, C.J., Kennard, Baxter,  
Werdegar, Chin, and Moreno, JJ.

**S134253**

A108488 First Appellate District,  
Division Three

INTERNATIONAL FEDERATION OF  
PROFESSIONAL & TECHNICAL ENGINEERS v.  
S.C. (CONTRA COSTA NEWSPAPERS)

Petition for review granted

Request for judicial notice denied.  
Petitions for review granted.

Votes: George, C.J., Kennard, Baxter,  
Werdegar, Chin, and Moreno, JJ.

**S134543**

A099250 First Appellate District,  
A099366 Division Two  
A099499  
A109260

PEOPLE v. NOEL

Petition for review granted; issues limited

Appellant Marjorie Knoller's petition for  
review GRANTED.

The issues to be briefed and argued are  
limited to the following: (1) Whether the mental  
state required for implied malice includes only  
conscious disregard for human life or is satisfied  
by an awareness that the act is likely to result in  
great bodily injury? (2) Whether the trial judge  
abused his discretion in granting the motion for  
new trial under Penal Code section 1181 (6).

Appellant Robert Noel's petition for review  
denied without prejudice to any relief to which  
defendant might be entitled upon finality of  
*People v. Black* (2005) 35 Cal.4th 1238 regarding  
the effect of *Blakely v. Washington* (2004) 542  
U.S. \_\_\_, 124 S.Ct. 2531, and *United States v.*  
*Booker* (2005) 543 U.S. \_\_\_, 125 S.Ct. 738, on  
California law.

Votes: George, C.J., Kennard, Baxter,  
Werdegar, Chin, and Moreno, JJ.

**S134545**

B178101 Second Appellate District,  
Division Eight

CATHOLIC MUTUAL RELIEF SOCIETY v. S.C.  
(ROMAN CATHOLIC ARCHDIOCESE OF S.D.)  
Petition for review granted

Votes: George, C.J., Kennard, Baxter,  
Werdegar, Chin, and Moreno, JJ.

**S134901**

F045226 Fifth Appellate District

PEOPLE v. S.C. (VIDAL)  
Petition for review granted

Petition for review GRANTED.

Pending further order of this court, trial in  
*People v. Jorge Junior Vidal*, Tulare County  
Superior Court Number 69782-C, is hereby  
stayed.

Baxter, J., was recused and did not participate.  
Votes: George, C.J., Kennard, Werdegar, Chin,  
and Moreno, JJ.

**S135819**

C050115 Third Appellate District

INDEPENDENT ENERGY PRODUCERS ASSN. v.  
McPHERSON (FINKELSTEIN)  
Petition for review granted

The stay issued by the Court of Appeal as part of its July 22, 2005, decision, restraining the Secretary of State from taking any steps, pending the finality of the Court of Appeal's decision, to place Proposition 80 in the ballot pamphlet or on the ballot of the special election to be held on November 8, 2005, is vacated. As the Court of Appeal recognized, California authorities establish that "it is usually more appropriate to review constitutional and other challenges to ballot propositions or initiative measures after an election rather than to disrupt the electoral process by preventing the exercise of the people's franchise, in the absence of some clear showing of invalidity." (*Brosnahan v. Eu* (1982) 31 Cal.3d 1, 4.) Because, unlike the Court of Appeal, at this point we cannot say that it is clear that article XII, section 5, of the California Constitution precludes the enactment of Proposition 80 as an initiative measure, we conclude that the validity of Proposition 80 need not and should not be determined prior to the

November 8, 2005 election. Accordingly, the Secretary of State and other public officials are directed to proceed with all the required steps to place Proposition 80 in the ballot pamphlet and on the ballot of the special election to be held on November 8, 2005. After that election, we shall determine whether to retain jurisdiction in this matter and resolve the issues raised in the petition.

Votes: George, C.J., Kennard, Baxter, Werdegar, Chin, and Moreno, JJ.

**S045982**

PEOPLE v. AVILA (JOHNNY, JR.)

Supplemental briefing ordered

The parties are requested to brief the effect, if any, of *Johnson v. California* (2005) \_\_\_ U.S. \_\_\_ [125 S.Ct. 2410] and *Miller-El v. Dretke* (2005) \_\_\_ U.S. \_\_\_ [125 S.Ct. 2317] on the issues of this case.

Appellant is directed to file a supplemental opening brief, limited to this question, on or before August 16, 2005. Respondent is directed to file a supplemental respondent's brief, also limited to this question, within 20 days of the filing of the supplemental opening brief. Appellant may file a supplemental reply brief, limited to this question, within 10 days of the supplemental respondent's brief.

**S134173**

C034960 Third Appellate District

PEOPLE v. VO

Review granted/briefing deferred (rule 29.1)

Petitions for review granted.

Further action in this matter is deferred pending consideration and disposition of a related issue in *People v. Shabazz*, S131048 (see Cal. Rules of Court, rule 28.2(d)(2)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 29.1, is deferred pending further order of the court.

Votes: George, C.J., Kennard, Baxter, Werdegar, Chin, and Moreno, JJ.

**S134354**

H023394 Sixth Appellate District

PEOPLE v. PENA

Review granted/briefing deferred (rule 29.1)

Respondent's petition for review GRANTED.

Further action in this matter is deferred pending consideration and disposition of a related issue in *People v. Modiri*, S120238 (see Cal. Rules of Court, rule 28.2(d)(2)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 29.1, is deferred pending further order of the court.

Appellant Carrasco's petition for review denied.

The appeals of appellants Castaneda, Patlan, and Pena are ordered severed, review of their appeals is dismissed, and the Court of Appeal is directed to issue remittiturs in their appeals. (See Cal. Rules of Court, rule 29.3(b).)

Respondent's depublication request is denied as moot.

Votes: George, C.J., Kennard, Baxter, Werdegar, Chin, and Moreno, JJ.

**S134398**

A104624 First Appellate District,  
Division Five

PEOPLE v. HERRING

Review granted/briefing deferred

Further action in this matter is deferred pending consideration and disposition of a related issue in *People v. Cage*, S127344 (see Cal. Rules of Court, rule 28.2(d)(2)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 29.1, is deferred pending further order of the court.

Votes: George, C.J., Kennard, Baxter, Werdegar, Chin, and Moreno, JJ.

**S134279**

D040473 Fourth Appellate District,  
Division One

GOBER v. RALPHS GROCERY

Petition for review granted; transferred to CA 4/1

Defendant's petition for review granted/

The cause is transferred to the Court of Appeal, Fourth District, Division One, for

reconsideration in light of *Simon v. San Paolo U.S. Holding Co., Inc.* (2005) 35 Cal.4th 1159 [29 Cal.Rptr.3d 379, 399-400].

Plaintiff's petition for review denied.

Votes: George, C.J., Kennard, Baxter, Werdegarr, Chin, and Moreno, JJ.

**S110450**

F037202 Fifth Appellate District

**PEOPLE v. GREGORY**

Dismissed per rule 29.3(b), and remanded to CA 5

Review in this case is dismissed. (Cal. Rules of Court, rule 29.3(b).) Petitioner's "Motion for Limited Remand to Permit Implementation of Trial Court Order," filed June 28, 2005, is denied as moot.

Baxter, J., was recused and did not participate.  
Votes: George, C.J., Kennard, Werdegarr, Chin, and Moreno, JJ.

**S134739**

A106345 First Appellate District,  
Division Four

**AMPEX v. CARGLE**

Petition ordered withdrawn

pursuant to written request of respondents, filed July 11, 2005

**S135218****MORRIS (TONY D.) ON H.C.**

Petition ordered withdrawn

Pursuant to written request of petitioner

**S096831****BARNETT (LEE MAX) ON H.C.**

Petition for writ of habeas corpus denied (AA)

The petition for writ of habeas corpus, filed on April 5, 2001, is denied.

Except for claim 113, each claim is denied on the merits for failure to state a prima facie case for relief.

Claim 113 is dismissed on the ground it is premature. (See *People v. Kelly* (1992) 1 Cal.4th 495, 545, fn. 11.)

Except for claims 57, 58, 60 (subparts A

and B), 61, 62 (insofar as it alleges Jerry Kenkel's conflicts of interest involving Delinda Olsen), 65 (insofar as it alleges trial counsel's false statements regarding Cindy Burger), 70 (insofar as it alleges prosecutorial misconduct and ineffective assistance of counsel regarding impeachment of Margaret Haynes, Lloyd Hampton, Dave McGee, Delinda Olsen, Gwen Hall, Helen T., and Robin Stingley with evidence that had not been disclosed to the defense), 71, 73, 75 (insofar as it alleges trial counsel's failure to secure Tom Burgess's permission to review Burgess's attorney's file), 76, 81 (insofar as it alleges ineffective assistance of trial counsel concerning Sunshine Clumpus, Jerry Vore, and Delinda Olsen), 83 (insofar as it alleges ineffective assistance of trial counsel), 84, 94, 95 (insofar as it alleges ineffective assistance of counsel), 96, 101 (subparts A, B, C, D, E, F, H, and I), 103, 104, 105, 106, 111 (insofar as it concerns Sunshine Clumpus), 112, 114, 115, 116, 117, 118, 119, 120, and 121, each claim is procedurally barred as both untimely (*In re Robbins* (1998) 18 Cal.4th 770, 780-781; *In re Clark* (1993) 5 Cal.4th 750, 763-799) and impermissibly successive (*In re Clark, supra*, 5 Cal.4th at pp. 767-768; *In re Horowitz* (1949) 33 Cal.2d 534, 546-547).

Except insofar as they allege ineffective assistance of counsel as a substantive basis for relief, the following claims are additionally barred to the extent they were raised and rejected on appeal (*In re Harris* (1993) 5 Cal.4th 813, 825, 829-841; *In re Waltreus* (1965) 62 Cal.2d 218, 225): claims 64, 69, 77, 83, 85, 87, 88, 89, 97, 98, and 108.

Except insofar as they allege ineffective assistance of counsel as a substantive basis for relief, the following claims or portions of claims are additionally barred to the extent they are based solely on the record on appeal and could have been, but were not, raised on appeal (*In re Harris, supra*, 5 Cal.4th at p. 825, fn. 3, 829-841; *In re Dixon* (1953) 41 Cal.2d 756, 759): claims 60 (subpart C), 63, 68 (allegations regarding the jury's perception of petitioner as dangerous and guilty of the charged offenses),

70 (allegations regarding impeachment of Cheryl Lake), 74, 78, 80, 82, 90, 91, 95, 98 (allegations regarding prosecutor's use of a balance scale, shark and dog references, display of a hunting knife during the penalty phase, and reference to the crumbling of society), 101 (subparts G, J, K, L, M, and N), and 107.

Except insofar as they allege ineffective assistance of counsel as a substantive basis for relief, the following claims or portions of claims are barred on the additional ground that petitioner forfeited them by failing to raise them in the trial court (*In re Seaton* (2004) 34 Cal.4th 193, 200): claims 59 (allegations regarding petitioner's state of being involuntarily medicated before and during trial; see *People v. Jones* (1997) 15 Cal.4th 119, 152-153), 68 (allegations regarding interference with attorney-client communications in court), 70 (allegations regarding prosecutorial misconduct involving Cheryl Lake), 74, 78 (allegations regarding those instances of prosecutorial misconduct to which counsel failed to object, move to strike, and seek proper admonishment), 82, 90, 91, 98 (allegations regarding those instances of prosecutorial misconduct to which counsel failed to object, move to strike, and seek proper admonishment), and 107. Werdegarr, J. would not invoke this bar on the ground the petition was not filed before *In re Seaton* became final.

The following claims or portions of claims are additionally barred to the extent they duplicate claims raised and rejected in petitioner's first petition for writ of habeas corpus challenging this judgment (*In re Miller* (1941) 17 Cal.2d 734, 735): claims 62 (insofar as it alleges Jerry Kenkel's conflicts of interest involving Jimmy Skidmore and Dan Zuercher, and Mark Stapleton's conflict of interest involving Bill Cantwell), 65 (insofar as it alleges trial counsel's false statements regarding the search for Sam and John), 67 (insofar as it alleges denial of access to counsel of choice), 70 (insofar as it alleges prosecutorial misconduct and ineffective assistance regarding impeachment of Christine Racowski), 92, 98, 99, 100, and 111 (insofar as it alleges newly



discovered evidence pertaining to Jacek Jerzy Gabryelski, Monalisa Larabee, Larry Wyman, and Michael O'Neill).

Claim 85 is barred on the further ground that claims of insufficiency of evidence are not cognizable on habeas corpus. (*In re Lindley* (1947) 29 Cal.2d 709, 723.)

Kennard, J., was recused and did not participate.

**S117268**

HOLLOWAY (DUANE) ON H.C.

Petition for writ of habeas corpus denied (AA)

The petition for writ of habeas corpus filed July 7, 2003, is denied. All claims are denied on the merits.

**S133597**

A103021 First Appellate District,  
Division Four

POWER STANDARDS LAB v. FEDERAL EXPRESS

Petition for review denied

**S133621**

MARKS (DELANEY) v. S.C. (PEOPLE)

Petition for writ of mandate/prohibition denied

The "Petition for Writ of Mandate and Emergency Request for Stay of Capital Case Proceedings," filed May 5, 2005, is denied.

**S133753**

H026802 Sixth Appellate District

EVANS v. CITY OF SAN JOSE

Petition for review denied

**S133834**

F046785 Fifth Appellate District

KEGLER (IZEAR) ON H.C.

Petition for review denied

**S133859**

B182270 Second Appellate District,  
Division Three

TOKHMANIAN (GARABET) ON H.C.

Petition for review denied

**S133863**

F047820 Fifth Appellate District

PARKER (RANDALL) ON H.C.

Petition for review denied

**S133869**  
F047781 Fifth Appellate District

EVINS (GLYNNON) ON H.C.  
Petition for review denied

**S133870**  
B182166 Second Appellate District,  
Division Five

EWING (CHRISTOPHER) ON H.C.  
Petition for review denied

**S133872**  
A109951 First Appellate District,  
Division Five

JOHNSON (WILLIE C.) ON H.C.  
Petition for review denied

**S133917**  
D043944 Fourth Appellate District,  
Division One

PEOPLE v. JENNINGS  
Petition for review denied

Kennard, J., is of the opinion the petition should  
be granted.

**S133919**  
G035471 Fourth Appellate District,  
Division Three

DIESS v. S.C. (STATE OF CALIFORNIA)  
Petition for review denied

**S133920**  
G035417 Fourth Appellate District,  
Division Three

BROWN (CLEMENT) ON H.C.  
Petition for review denied

**S133935**  
H028085 Sixth Appellate District

CHACON (MANUEL) ON H.C.  
Petition for review denied

**S133936**  
D045081 Fourth Appellate District,  
Division One

CONSIGLIO (SAM) ON H.C.  
Petition for review denied

**S133945**  
B182274 Second Appellate District,  
Division Three

SMITH (LYDIA) ON H.C.  
Petition for review denied

**S133966**  
D046191 Fourth Appellate District,  
Division One

MIZNER (JEFFREY T.) ON H.C.  
Petition for review denied

**S133967**

B182650 Second Appellate District,  
Division Three

POWERS, (BRIAN) ON H.C.  
Petition for review denied

**S133992**

B172056 Second Appellate District,  
Division Six

CALIFORNIA INSURANCE GUARANTEE ASSN.  
v. WCAB (AMERICAN MOTORISTS INS. CO.)  
Petition for review denied

**S133995**

G035372 Fourth Appellate District,  
Division Three

DUESLER (ROBERT L.) ON H.C.  
Petition for review denied

**S134004**

E038006 Fourth Appellate District,  
Division Two

ANDREWS (CHARLES) ON H.C.  
Petition for review denied

**S134006**

H027587 Sixth Appellate District

DIAZ (RICHARD) ON H.C.  
Petition for review denied

**S134021**

B167835 Second Appellate District,  
Division Eight

WILLIAMS v. ZUCKERMAN  
Petition for review denied

**S134022**

B182515 Second Appellate District,  
Division Two

CLARK (MICHAEL) ON H.C.  
Petition for review denied

**S134043**

B182652 Second Appellate District,  
Division One

WAGONER (KEITH) ON H.C.  
Petition for review denied

**S134065**

B182659 Second Appellate District,  
Division Five

RODRIGUEZ (SAUL) ON H.C.  
Petition for review denied

**S134116**

B157888 Second Appellate District,  
Division Six

PEOPLE v. MALDONADO  
Petitions for review denied

denied without prejudice to any relief to which

defendants might be entitled upon finality of *People v. Black* (2005) 35 Cal.4th 1238 regarding the effect of *Blakely v. Washington* (2004) 542 U.S. \_\_\_, 124 S.Ct. 2531, and *United States v. Booker* (2005) 543 U.S. \_\_\_, 125 S.Ct. 738, on California law.

**S134120**

A110039 First Appellate District,  
Division Five

## JONES (LUTHER) ON H.C.

Petition for review denied

**S134128**

A105638 First Appellate District,  
A106198 Division One

## GARAMENDI v. GOLDEN EAGLE INSURANCE

Petition for review denied

**S134132**

D043044 Fourth Appellate District,  
Division One

REDEVELOPMENT AGENCY OF SAN DIEGO v.  
ATTISHA

Petition for review denied

**S134226**

A101381 First Appellate District,  
Division Two

## PEOPLE v. KEY

Petition for review & publication request denied

**S134244**

A110063 First Appellate District,  
Division Three

## CAPITAL ONE SERVICES v. S.C. (SEELEY)

Petition for review denied

Kennard, J., and Chin, J., were recused and did not participate.

**S134245**

D043941 Fourth Appellate District,  
Division One

## PEOPLE v. VAUGHN

Petition for review denied

**S134257**

F043820 Fifth Appellate District

## PEOPLE v. JACKSON

Petition for review denied

**S134271**

B175993 Second Appellate District,  
Division Six

CALIFORNIA INSURANCE GUARANTEE ASSN.  
v. WCAB (ARGONAUT INSURANCE CO.)

Petition for review denied

**S134295**

B180613 Second Appellate District,  
Division Three

MERCK & COMPANY v. S.C. (ADAIR)

Petition for review denied

Baxter and Chin, JJ., were recused and did not  
participate.

**S134317**

B170332 Second Appellate District,  
Division Eight

COHEN, MARRIAGE OF

Petition for review denied

**S134358**

H026875 Sixth Appellate District

CARRASCO (CHRISTOPHER) ON H.C.

Petition for review denied

**S134382**

D044290 Fourth Appellate District,  
Division One

PEOPLE v. POTTER

Petition for review denied

**S134406**

B176179 Second Appellate District,  
Division Five

PEOPLE v. HRANEK

Petition for review denied

**S134411**

C049832 Third Appellate District

BELL (KENNETH M.) ON H.C.

Petition for review denied

**S134418**

C049614 Third Appellate District

BRIDGES (MONTE LEE) ON H.C.

Petition for review denied

**S134427**

B175491 Second Appellate District,  
Division Three

PEOPLE v. LEICHMAN

Petition for review denied

**S134429**

B158336 Second Appellate District,  
Division Three

GILL v. RICH

Petition for review denied

**S134440**

B181863 Second Appellate District,  
Division Two

STATE COMPENSATION INSURANCE FUND v.

WCAB (MEDRANO)

Petition for review denied

**S134452**  
H027954 Sixth Appellate District

POYE (SERGUEY PEREZ) ON H.C.  
Petition for review denied

**S134457**  
A103843 First Appellate District,  
Division Two

D. (KATIE), IN RE  
Petition for review denied

**S134459**  
B172129 Second Appellate District,  
Division Three

PEOPLE v. FERRELL  
Petition for review denied

**S134480**  
H026934 Sixth Appellate District

PEOPLE v. POWELL  
Petition for review denied

**S134481**  
G033106 Fourth Appellate District,  
Division Three

PEOPLE v. BENJAMIN  
Petition for review denied

**S134534**  
D043702 Fourth Appellate District,  
Division One

SNOW v. WOODFORD  
Petition for review denied

Request for judicial notice granted.

**S134558**  
B173765 Second Appellate District,  
Division Three

PEOPLE v. CRUZ  
Petition for review denied

**S134559**  
F044258 Fifth Appellate District

PEOPLE v. GARCIA  
Petition for review denied

denied without prejudice to any relief to which defendant might be entitled upon finality of *People v. Black* (2005) 35 Cal.4th 1238 regarding the effect of *Blakely v. Washington* (2004) 542 U.S. \_\_\_, 124 S.Ct. 2531, and *United States v. Booker* (2005) 543 U.S. \_\_\_, 125 S.Ct. 738, on California law.

Baxter, J., was recused and did not participate.

**S134573**

B175886 Second Appellate District,  
Division Eight

KHAN v. ARMENIAN BONE MARROW DONOR  
REGISTRY CORP.

Petition for review denied

**S134646**

B182698 Second Appellate District,  
Division One

HISTON (LARRY) ON H.C.

Petition for review denied

**S134651**

B179053 Second Appellate District,  
Division Eight

ROMAN CATHOLIC BISHOP v. S.C. (THATCHER

Petition for review denied

Werdegar, J., is of the opinion the petition  
should be granted.

**S134659**

E036920 Fourth Appellate District,  
Division Two

B. (DONTÉ), IN RE

Petitions for review denied

**S134711**

C045286 Third Appellate District

CASSIDY v. GAISER

Petition for review denied

**S134719**

F046580 Fifth Appellate District

Z. (B.), IN RE

Petition for review denied

**S134766**

C046879 Third Appellate District

S. (MICHAELA), IN RE

Petition for review denied

**S134767**

C046864 Third Appellate District

M. (KATRINA), IN RE

Petition for review denied

**S134791**

D044293 Fourth Appellate District,  
Division One

PEOPLE v. CASTILLO

Petition for review denied

**S134821**

B177426 Second Appellate District,  
Division Six

PEOPLE v. THOMAS

Petition for review denied

**S134824**

E035656 Fourth Appellate District,  
Division Two

## PEOPLE v. CLARK

Petition for review denied

denied without prejudice to any relief to which defendant might be entitled upon finality of *People v. Black* (2005) 35 Cal.4th 1238 regarding the effect of *Blakely v. Washington* (2004) 542 U.S. \_\_\_, 124 S.Ct. 2531, and *United States v. Booker* (2005) 543 U.S. \_\_\_, 125 S.Ct. 738, on California law.

**S134847**

E034461 Fourth Appellate District,  
Division Two

## PEOPLE v. BARNES

Petition for review denied

denied without prejudice to any relief to which defendant might be entitled upon finality of *People v. Black* (2005) 35 Cal.4th 1238 regarding the effect of *Blakely v. Washington* (2004) 542 U.S. \_\_\_, 124 S.Ct. 2531, and *United States v. Booker* (2005) 543 U.S. \_\_\_, 125 S.Ct. 738, on California law.

**S134848**

B167805 Second Appellate District,  
Division Eight

## PEOPLE v. MORA

Petition for review denied

**S134861**

E034638 Fourth Appellate District,  
Division Two

## PEOPLE v. BROWN

Petition for review denied

denied without prejudice to any relief to which defendant might be entitled upon finality of *People v. Black* (2005) 35 Cal.4th 1238 regarding the effect of *Blakely v. Washington* (2004) 542 U.S. \_\_\_, 124 S.Ct. 2531, and *United States v. Booker* (2005) 543 U.S. \_\_\_, 125 S.Ct. 738, on California law.

**S134863**

E035393 Fourth Appellate District,  
Division Two

## PEOPLE v. SNYDER

Petition for review denied

**S134869**

F044341 Fifth Appellate District

## PEOPLE v. MILLER

Petition for review denied



**S134871**

B177786 Second Appellate District,  
Division Five

## KNUPFER v. FLAGSTAR BANK

Petition for review denied

**S134881**

B176231 Second Appellate District,  
Division Six

## PEOPLE v. SIERRA

Petition for review denied

**S134888**

E035745 Fourth Appellate District,  
Division Two

## PEOPLE v. WADKINS

Petition for review denied

**S134889**

E035459 Fourth Appellate District,  
Division Two

## PEOPLE v. LANGEVIN

Petition for review denied

**S134890**

B168992 Second Appellate District,  
Division Eight

## PEOPLE v. LARSON

Petition for review denied

denied without prejudice to any relief to which defendant might be entitled upon finality of *People v. Black* (2005) 35 Cal.4th 1238 regarding the effect of *Blakely v. Washington* (2004) 542 U.S. \_\_\_, 124 S.Ct. 2531, and *United States v. Booker* (2005) 543 U.S. \_\_\_, 125 S.Ct. 738, on California law.

**S134896**

B171371 Second Appellate District,  
Division Five

## RILORO, INC. v. TUMANJAN

Petition for review denied

**S134897**

G032441 Fourth Appellate District,  
Division Three

## PEOPLE v. MOTE

Petition for review denied

**S134903**

C046558 Third Appellate District

## PEOPLE v. VOTH

Petition for review denied

**S134908**

G033368 Fourth Appellate District,  
Division Three

PEOPLE v. BECKMAN  
Petition for review denied

**S134912**

C044059 Third Appellate District

PRENATT v. G.W. WILLIAMS COMPANY  
Petition for review denied

**S134913**

F045332 Fifth Appellate District

ANDERSON v. TIME WARNER TELECOM  
Petition for review denied

**S134918**

F045524 Fifth Appellate District

C. (KENNY), IN RE  
Petition for review denied

Baxter, J., was recused and did not participate.

**S134919**

C047253 Third Appellate District

PEOPLE v. BLACKWELL  
Petition for review denied

denied without prejudice to any relief to which defendant might be entitled upon finality of *People v. Black* (2005) 35 Cal.4th 1238 regarding the effect of *Blakely v. Washington* (2004) 542 U.S. \_\_\_, 124 S.Ct. 2531, and *United States v. Booker* (2005) 543 U.S. \_\_\_, 125 S.Ct. 738, on California law.

**S134922**

E035990 Fourth Appellate District,  
Division Two

PEOPLE v. HERNANDEZ  
Petition for review denied

**S134926**

F043354 Fifth Appellate District

PEOPLE v. WHITT  
Petition for review denied

denied without prejudice to any relief to which defendant might be entitled upon finality of *People v. Black* (2005) 35 Cal.4th 1238 regarding the effect of *Blakely v. Washington* (2004) 542 U.S. \_\_\_, 124 S.Ct. 2531, and *United States v. Booker* (2005) 543 U.S. \_\_\_, 125 S.Ct. 738, on California law.

Baxter, J., was recused and did not participate.

**S134929**

G035247 Fourth Appellate District,  
Division Three

## CROSBY v. W.C.A.B. (BALTIMORE COLTS)

Petition for review denied

**S134934**

H026627 Sixth Appellate District

## PEOPLE v. HUTCHINSON

Petition for review denied

**S134936**

A108508 First Appellate District,  
Division Four

## PEOPLE v. BAILEY

Petition for review denied

denied without prejudice to any relief to which defendant might be entitled upon finality of *People v. Black* (2005) 35 Cal.4th 1238 regarding the effect of *Blakely v. Washington* (2004) 542 U.S. \_\_\_, 124 S.Ct. 2531, and *United States v. Booker* (2005) 543 U.S. \_\_\_, 125 S.Ct. 738, on California law.

**S134937**

A110392 First Appellate District,  
Division One

## POLK v. S.C. (PEOPLE)

Petition for review denied

**S134939**

F045835 Fifth Appellate District

## PEOPLE v. ENGLETON

Petition for review denied

**S134945**

A106269 First Appellate District,  
Division Four

## PEOPLE v. SINGH

Petition for review denied

**S134946**

B175897 Second Appellate District,  
Division Eight

## PEOPLE v. KINGSBORO

Petition for review denied

**S134947**

B175497 Second Appellate District,  
Division Three

## PEOPLE v. COPELAND

Petition for review denied

**S134952**

E036406 Fourth Appellate District,  
Division Two

## PEOPLE v. TIRRELL

Petition for review denied

The request for an order directing publication of the opinion is denied.

**S134954**

F046053 Fifth Appellate District

## PEOPLE v. BARRIOS

Petition for review denied

denied without prejudice to any relief to which defendant might be entitled upon finality of *People v. Black* (2005) 35 Cal.4th 1238 regarding the effect of *Blakely v. Washington* (2004) 542 U.S. \_\_\_, 124 S.Ct. 2531, and *United States v. Booker* (2005) 543 U.S. \_\_\_, 125 S.Ct. 738, on California law.

**S134959**

G035367 Fourth Appellate District,  
Division Three

## PHAN v. S.C. (INDIANAPOLIS LIFE INSURANCE)

Petition for review denied

**S134963**

B175902 Second Appellate District,  
Division One

## PEOPLE v. JARRELL

Petition for review denied

Moreno, J., was recused and did not participate.

**S134964**

E036308 Fourth Appellate District,  
Division Two

## PEOPLE v. J. (Q.)

Petition for review denied

**S134966**

F045437 Fifth Appellate District

## PEOPLE v. BELL

Petition for review denied

**S134967**

A105492 First Appellate District,  
A104861 Division One

## PEOPLE v. WILLIAMS

Petition for review denied

denied without prejudice to any relief to which defendant might be entitled upon finality of *People v. Black* (2005) 35 Cal.4th 1238 regarding the effect of *Blakely v. Washington* (2004) 542 U.S. \_\_\_, 124 S.Ct. 2531, and *United States v. Booker* (2005) 543 U.S. \_\_\_, 125 S.Ct. 738, on California law.

**S134968**  
C046590 Third Appellate District

PEOPLE v. ANDERSON  
Petition for review denied

**S134971**  
B173846 Second Appellate District,  
Division Six

PEOPLE v. CALUNGA  
Petition for review denied

denied without prejudice to any relief to which defendant might be entitled upon finality of *People v. Black* (2005) 35 Cal.4th 1238 regarding the effect of *Blakely v. Washington* (2004) 542 U.S. \_\_\_, 124 S.Ct. 2531, and *United States v. Booker* (2005) 543 U.S. \_\_\_, 125 S.Ct. 738, on California law.

**S134974**  
C044514 Third Appellate District

PEOPLE v. MENEFEER  
Petition for review denied

**S134982**  
C044863 Third Appellate District

PEOPLE v. RODRIGUEZ  
Petition for review denied

**S134993**  
D044565 Fourth Appellate District,  
Division One

PEOPLE v. RICHARDSON  
Petition for review denied

**S134996**  
B183627 Second Appellate District,  
Division Five

HILL v. S.C. (PEOPLE)  
Petition for review denied

**S135003**  
A102857 First Appellate District,  
Division Three

FIELDS v. MAESTRO'S RISTORANTE  
Petition for review denied

**S135006**  
F045169 Fifth Appellate District

PEOPLE v. HERRERA  
Petition for review denied

denied without prejudice to any relief to which defendant might be entitled upon finality of *People v. Black* (2005) 35 Cal.4th 1238 regarding the effect of *Blakely v. Washington* (2004) 542 U.S. \_\_\_, 124 S.Ct. 2531, and *United States v. Booker* (2005) 543 U.S. \_\_\_, 125 S.Ct. 738, on California law.

**S135008**

A110389 First Appellate District,  
Division Five

DEMOLLE v. S.C. (PEOPLE)

Petition for review denied

**S135012**

B183440 Second Appellate District,  
Division Five

DELGADO v. S.C. (PEOPLE)

Petition for review denied

**S135017**

B175006 Second Appellate District,  
B180832 Division Seven

PEOPLE v. CUEVAS

Petition for review denied

**S135088**

F045273 Fifth Appellate District

V. (B.), IN RE

Petition for review denied

**S135102**

C047616 Third Appellate District

PEOPLE v. RAMSEY

Petition for review denied

denied without prejudice to any relief to which defendant might be entitled upon finality of *People v. Black* (2005) 35 Cal.4th 1238 regarding the effect of *Blakely v. Washington* (2004) 542 U.S. \_\_\_, 124 S.Ct. 2531, and *United States v. Booker* (2005) 543 U.S. \_\_\_, 125 S.Ct. 738, on California law.

**S135130**

C044817 Third Appellate District

PEOPLE v. HALL

Petition for review denied

**S135190**

JACKSON v. CA 1/5 (CALIF MEDICAL FACILITY)

Petition for writ of mandate/prohibition denied

**S135312**

DIXIE v. OHLRICH

Petition for writ of mandate/prohibition denied

**S135400**

GEORGIADES v. S.C. (PEOPLE)

Petition for writ of mandate/prohibition denied

**S120923**

FARMER (ALLEN DESHAUN) ON H.C.  
Petition for writ of habeas corpus denied

**S125016**

LA CAVA (ROBERT J.) ON H.C.  
Petition for writ of habeas corpus denied

**S127603**

HIGGINS (CARL) ON H.C.  
Petition for writ of habeas corpus denied

**S127634**

SMITH (TRACY) ON H.C.  
Petition for writ of habeas corpus denied

(See *In re Dexter* (1979) 25 Cal.3d 921.)

**S127645**

CURREY (ILENA P.) ON H.C.  
Petition for writ of habeas corpus denied

**S127674**

SIMPSON (MICHAEL) ON H.C.  
Petition for writ of habeas corpus denied

**S127676**

THOMPSON (ALLEN C.) ON H.C.  
Petition for writ of habeas corpus denied

(See *In re Robbins* (1998) 18 Cal.4th 770, 780.)

**S127677**

HIGGINS (ROBERT E.) ON H.C.  
Petition for writ of habeas corpus denied

**S127681**

VOSS (STEVEN F.) ON H.C.  
Petition for writ of habeas corpus denied

(See *In re Wessley W.* (1981) 125 Cal.App.3d 240, 246; *In re Azurin* (2001) 87 Cal.App.4th 20; *In re Robbins* (1998) 18 Cal.4th 770, 780.)

**S127727**

RICO (ARTHUR SINGH) ON H.C.  
Petition for writ of habeas corpus denied

(See *In re Clark* (1993) 5 Cal.4th 750; *In re Robbins* (1998) 18 Cal.4th 770, 780.)

**S127746**

SINGLETON (LATONNE A.) ON H.C.  
Petition for writ of habeas corpus denied

**S127747**

RUBI (MARIO) ON H.C.  
Petition for writ of habeas corpus denied

(See *In re Robbins* (1998) 18 Cal.4th 770, 780;  
*In re Lindley* (1947) 29 Cal.2d 709; *In re*  
*Waltreus* (1965) 62 Cal.2d 218.)

**S127749**

RECIO (JAIME) ON H.C.  
Petition for writ of habeas corpus denied

**S127750**

TORRES (DANNY) ON H.C.  
Petition for writ of habeas corpus denied

(See *In re Clark* (1993) 5 Cal.4th 750; *In re*  
*Robbins* (1998) 18 Cal.4th 770, 780; *In re Miller*  
(1941) 17 Cal.2d 734.)

**S127756**

CONYERS (DARRYL) ON H.C.  
Petition for writ of habeas corpus denied

**S127757**

CORYELL (SHANNON) ON H.C.  
Petition for writ of habeas corpus denied

**S127861**

GUILLEN (JUAN) ON H.C.  
Petition for writ of habeas corpus denied

**S127884**

JAQUEZ (PETER) ON H.C.  
Petition for writ of habeas corpus denied

**S127895**

HILLMON (CARLTON) ON H.C.  
Petition for writ of habeas corpus denied

**S127929**

LOPEZ (JOSE ALBERTO) ON H.C.  
Petition for writ of habeas corpus denied



**S127931**

LACY (DWIGHT E.) ON H.C.  
Petition for writ of habeas corpus denied

**S127933**

MCCRAY (FRED) ON H.C.  
Petition for writ of habeas corpus denied

(See *In re Clark* (1993) 5 Cal.4th 750; *In re Robbins* (1998) 18 Cal.4th 770, 780.)

**S127939**

WATSON (VALENTINO W.) ON H.C.  
Petition for writ of habeas corpus denied

(See *In re Robbins* (1998) 18 Cal.4th 770, 780.)

**S127942**

WILLIAMS (DAMON) ON H.C.  
Petition for writ of habeas corpus denied

**S127943**

COOPER (CORY H.) ON H.C.  
Petition for writ of habeas corpus denied

**S127947**

CURRY (JONATHAN) ON H.C.  
Petition for writ of habeas corpus denied

(See *In re Clark* (1993) 5 Cal.4th 750; *In re Robbins* (1998) 18 Cal.4th 770, 780.)

**S127954**

WHITE (JIMMY) ON H.C.  
Petition for writ of habeas corpus denied

**S127955**

THOMPSON (STEPHEN) ON H.C.  
Petition for writ of habeas corpus denied

(See *In re Robbins* (1998) 18 Cal.4th 770, 780.)

**S127956**

FARRAR (MARY) ON H.C.  
Petition for writ of habeas corpus denied

**S127958**

LEE (MIKE W.) ON H.C.  
Petition for writ of habeas corpus denied

(See *In re Robbins* (1998) 18 Cal.4th 770, 780.)

**S127960**

ELIZALDE (RICARDO M.) ON H.C.  
Petition for writ of habeas corpus denied

**S127962**

PARKS (WAYNE C.) ON H.C.  
Petition for writ of habeas corpus denied

**S127963**

PAREDES (ANTONIO) ON H.C.  
Petition for writ of habeas corpus denied

(See *People v. Black* (2005) 35 Cal.4th 1238.)

**S128359**

PFOST (MARK C.) ON H.C.  
Petition for writ of habeas corpus denied

**S128398**

HAYWARD (RONALD) ON H.C.  
Petition for writ of habeas corpus denied

**S128601**

STALLWORTH (MILTON) ON H.C.  
Petition for writ of habeas corpus denied

**S128689**

LACY (DWIGHT E.) ON H.C.  
Petition for writ of habeas corpus denied

**S128734**

SAUNDERS (THOMAS) ON H.C.  
Petition for writ of habeas corpus denied

(See *In re Dannenberg* (2005) 34 Cal.4th 1061;  
*In re Rosenkrantz* (2002) 29 Cal.4th 616.)

**S128942**

HILL (JEFFREY A.) ON H.C.  
Petition for writ of habeas corpus denied

**S129530**MASONER (JAMES) ON H.C.  
Petition for writ of habeas corpus denied**S129919**STURGIS (ROBERT) ON H.C.  
Petition for writ of habeas corpus denied**S129984**WOO (CHEUK) ON H.C.  
Petition for writ of habeas corpus denied*(People v. Duvall (1995) 9 Cal.4th 464, 474.)***S131468**HOGUE (BRIAN) ON H.C.  
Petition for writ of habeas corpus denied**S131856**D044857 Fourth Appellate District,  
Division OneA. (JESSICA), IN RE  
Depublication request denied (case closed)**S132859**D043425 Fourth Appellate District,  
Division OneSAN DIEGO, CITY OF v. D.R. HORTON SAN DIEGO  
HOLDING COMPANY, INC.  
Depublication request denied (case closed)**S133398**E036817 Fourth Appellate District,  
Division TwoJ. (A.), IN RE  
Publication request denied (case closed)**S133800**A107626 First Appellate District,  
Division FivePEOPLE v. ALLEGHENY CASUALTY (NAPA CO.)  
Publication request denied (case closed)**S134336**

F043383 Fifth Appellate District

DIXON v. SAMUEL  
Publication request denied (case closed)**S134997**B176587 Second Appellate District,  
Division SixPEOPLE v. JACKSON  
Depublication request denied (case closed)

**S134118**

C046428 Third Appellate District

## PEOPLE v. SCHOOLER

Time extended to grant or deny review

to August 29, 2005

**S134268**B175113 Second Appellate District,  
Division One

## PEOPLE v. CAMARGO

Time extended to grant or deny review

to August 29, 2005

**S134319**B174556 Second Appellate District,  
Division Seven

## CAMPBELL v. SIMMONDS

Time extended to grant or deny review

to August 26, 2005

**S134348**B172475 Second Appellate District,  
Division Seven

## PEOPLE v. ANDERSON

Time extended to grant or deny review

to August 31, 2005

**S134408**B175962 Second Appellate District,  
Division Two

## I. (DANIEL), IN RE

Time extended to grant or deny review

to August 29, 2005

**S134449**

F043554 Fifth Appellate District

## PEOPLE v. MEZA

Time extended to grant or deny review

to August 31, 2005

**S134498**D044079 Fourth Appellate District,  
Division One

## SAN DIEGO, CITY OF v. BARRATT AMERICAN,

Time extended to grant or deny review

to September 2, 2005

**S134539**

C046508 Third Appellate District

## GETTINGS v. TONEY

Time extended to grant or deny review

to September 1, 2005

**S050583**

PEOPLE v. HOWARD (DEMETRIUS)  
Extension of time granted

to October 13, 2005 to file respondent's brief.

**S062180**

PEOPLE v. VALDEZ (RICHARD)  
Extension of time granted

to September 30, 2005 to file appellant's opening brief. After that date, only three further extensions totaling about 180 additional days will be granted. Extension is granted based upon Deputy State Public Defender Raoul D. Schonemann's representation that he anticipates filing that brief by 4/1/2006.

**S065233**

PEOPLE v. SMITH (FLOYD)  
Extension of time granted

to October 4, 2005 to file appellant's opening brief. After that date, only four further extensions totaling about 210 additional days will be granted. Extension is granted based upon Deputy State Public Defender Jamilla Moore's representation that she anticipates filing that brief by early 5/2006. Counsel is ordered to inform his or her supervising attorney, if any, of this schedule, and to take all steps necessary to meet it.

**S073253**

PEOPLE v. GUTIERREZ (ALFRED A.)  
Extension of time granted

to September 26, 2005 to file respondent's brief. After that date, only one further extension totaling about ten additional days is contemplated. Extension is granted based upon Deputy Attorney General Robert C. Schneider's representation that he anticipates filing that brief by 10/5/2005.

**S073823**

PEOPLE v. BUENROSTRO (DORA)

Extension of time granted

to September 30, 2005 to file appellant's opening brief.

**S075727**

PEOPLE v. JOHNSON (CEDRIC JEROME)

Extension of time granted

to October 3, 2005 to file appellant's opening brief. After that date, only five further extensions totaling about 300 additional days will be granted. Extension is granted based upon Deputy State Public Defender Joseph E. Chabot's representation that he anticipates filing that brief by 8/2/2006.

**S078664**

PEOPLE v. AVILA (JOSEPH)

Extension of time granted

Appellant's application for relief from default for failure to file appellant's opening brief or a timely motion for extension of time is granted.

Good cause appearing, and based upon counsel Christine J. Levin's representation that she anticipates filing the appellant's opening brief by 9/27/2005, counsel's request for an extension of time in which to file that brief is granted to 9/27/2005. After that date, no further extension is contemplated.

**S131048**

B160417 Second Appellate District,  
Division Eight

PEOPLE v. SHABAZZ

Extension of time granted

to August 22, 2005 for aplt to file the answer brief on the merits. No further extensions of time are contemplated.

**S134448**

B173224 Second Appellate District,  
Division Four

PEOPLE v. HAMILTON

Counsel appointment order filed

Julie Hernandez is appointed to represent appellant on the appeal now pending in this court.

**S134609**B172130 Second Appellate District,  
Division Four

PEOPLE v. WITHERS

Counsel appointment order filed

Janice Lagerlof is appointed to represent appellant on the appeal now pending in this court.

**S026408**

PEOPLE v. LYNCH (FRANKLIN)

Motion for access to sealed record granted

Respondent's "Application for Copy of Sealed *Marsden* Transcripts and Other Sealed Documents (Cal. Rules of Court, rule 31.2)" is granted. The clerk of the court is ordered to transmit to respondent copies of 1) *Marsden* motion filed June 10, 1991 (Sealed C.T. Vol. 44, pp. 11876–11881); 2) Reporter's Transcript of *Marsden* hearing on June 12, 1991 (Sealed R.T. June 12, 1991, pp. 1–8); 3) Reporter's Transcript of *Marsden* hearing on July 26, 1991 (Sealed R.T. July 26, 1991, pp.1–2); 4) Reporter's Transcript of *Marsden* hearing on August 1, 1991 (Sealed R.T. August 1, 1991, pp. 1–30); 5) Reporter's Transcript of *Marsden* and *Faretta* hearing on October 7, 1991 (Sealed R.T. October 7, 1991, pp. 5–18, 33–38); and 6) Reporter's Transcript of *Marsden* and *Faretta* hearing on October 17, 1991 (Sealed R.T. October 17, 1991, pp. 56–79.) The transcripts and documents are to remain under seal.

**S065720**

PEOPLE v. VINES (SEAN VENYETTE)

Order filed

Appellant's "Application for permission to file supplemental brief re: Miller-El v. Dretke (2005) 125 S.Ct.2317" is granted. Any response to the supplemental brief must be included in respondent's brief due on August 22, 2005.

**S101970**

BOYER (RICHARD) ON H.C.

Motion denied

Petitioner's "Application for Stay of Habeas Corpus Proceedings Pending Resolution of

Petitioner's Post-conviction Discovery  
Proceedings Pursuant to Penal Code section  
1054.9 and *In re Steele* (2004) 32 Cal.4th 682;  
Memorandum of Points and Authorities and  
Declaration of Counsel," filed on June 24, 2005,  
is denied.

**S110741**

PADILLA (ALFREDO A.) ON H.C.  
Motion denied

The "Motion to Amend Petition for Writ of  
Habeas Corpus," filed in this court on April 1,  
2005, is denied.

**S135819**  
C050115 Third Appellate District

FINKELSTEIN v. CA 3 (INDEPENDENT ENERGY  
PRODUCERS ASSOCIATION  
Order filed

The order filed on July 26, 2005 is hereby  
amended to read in its entirety:

The "Emergency Petition for Writ of  
Review," filed on July 25, 2005, is refiled as a  
Petition for Review from the Court of Appeal's  
decision in *Independent Energy Producers  
Association et al. v. McPherson (Finkelstein et  
al., Real Parties in Interest)* (July 22, 2005,  
C050115) \_\_\_ Cal.App.4th \_\_\_ [05 C.D.O.S.  
6448].

The matter is retitled as follows:

INDEPENDENT ENERGY PRODUCERS  
ASSOCIATION et al., Petitioners,

v.

BRUCE McPHERSON, as Secretary of  
State, etc., Respondent;  
ROBERT FINKELSTEIN et al., Real  
Parties in Interest.

**S110741**

PADILLA (ALFREDO A.) ON H.C.  
Reference hearing ordered

THE COURT:

Based on the record in this matter and good  
cause appearing:

The Honorable Marie Sovey Silveira,



Presiding Judge of the Superior Court of California, County of Stanislaus, shall select a Judge of the Superior Court of California, County of Stanislaus to sit as a referee in this proceeding and shall promptly notify this court of the referee selected. After appointment by this court, the referee shall take evidence and make findings of fact on the following questions regarding the case of *People v. Alfredo Alvarado Padilla* (Stanislaus County Superior Court No. 236426; Judge Hugh Rose III):

1. Did Juror Kim Uekert make up his mind to vote to sentence petitioner to death before the penalty phase began? (Petn., issue # III.A.3.b, pp. 314-315.)

2. Did Juror Kim Uekert communicate to his wife, before the trial was over, a decision to sentence petitioner to death?

The taking of evidence is limited to these two questions. Accordingly, respondent's "Motion to Strike Portions of Traverse Beyond the Order to Show Cause," filed in this court on October 12, 2004, is granted.

It is further ordered that the referee prepare and submit to this court a report of the proceedings conducted pursuant to this appointment, the evidence adduced, and the findings of fact made.

Any requests for discovery in this matter, including but not limited to any motion by petitioner under *Pennsylvania v. Ritchie* (1987) 480 U.S. 39, should be addressed to the referee. (See *In re Scott* (2003) 29 Cal.4th 783, 814.)

